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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,492	02/13/2004	Qiwei He	3074.NWN	8063

7590 03/15/2010  
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EXAMINER
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MULCAHY, PETER D

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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03/15/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/779,492	<b>Applicant(s)</b> HE ET AL.	
	<b>Examiner</b> Peter D. Mulcahy	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-9,11-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-9,11-14,16-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-9, 11-14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kueppers US 5,939,483 in view of Diehl et al US. 5,292,819.

3. Claims 1-4, 6-9, 11-14, 16 and 17 are **no longer** rejected under 35 U.S.C. 103(a) as being unpatentable over Komatsuzaki et al. US 6,534,593 or Vaughan et al. US 6,531,544 or Koppers US 5,939,483 or Asahara et al. US 5,532,319 as set forth in the paper mailed 10/20/08.

4. Koppers is cited as showing hot melt adhesives comprising applicants (PS-PI) X. This component is suggested to be used in amounts ranging 10-40%, see column 4 lines 25-50. This patent further shows the claimed triblock polymer in the claimed amount, see column 6 lines 10-15. Tackifiers and plasticizers as claimed are discussed at column 4 lines 66+ and column 7 lines 4+. The claims further recite that the adhesive composition be "suitable for use as an elastic attachment adhesive". It is questionable just how this language further limits the claim. It is further maintained that the adhesive shown in Koppers may well be "suitable for use as an elastic attachment adhesive". In any event, the intended use of the adhesives discussed in Koppers is in packaging applications.

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5. Diehl et al. is cited as showing very similar adhesive compositions. These compositions comprise the claimed block polymers, tackifiers and plasticizers, see the abstract. This patent further discusses various end uses for the adhesives disclosed therein. Column 6 lines 5-30 specifically identify the use of the adhesive being diaper applications, packaging and carton sealing. One having ordinary skill in the art would have a clear understanding that adhesives useful in packaging applications can be used in diaper and elastic attachment as well. One would be motivated to select the adhesive compositions in Koppers for elastic attachment applications as shown in Diehl, given the art recognized properties that make these adhesives suitable for both packaging and elastic attachment as evidenced by the disclosure in Diehl.

6. Applicants have extensively argued that the Koppers adhesive is used in packaging application and the viscosity reported therein is such that the adhesive composition would be unsuitable for the elastic attachment as claimed. This is not persuasive. Koppers reports viscosities as high as 5000cPs and directs one to use lower viscosities for packaging applications. Implicit within this disclosure is that the viscosity property is well known and the manipulation thereof is well within the skill of one in the art. It is prima facie obvious to arrive at optimum proportions so as to provide desired properties. Applicants point to the instant specification which reports a viscosity of 6000. Applicant has provided no proof that Kueppers' adhesives have unsuitable viscosity for use as an elastic attachment adhesive (appellants' have not been clear as to whether they believe that Kueppers' viscosities are too high or too low for use as an elastic attachment adhesive either), and in any case viscosity is a function of

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temperature and appellants' claims are not drawn to a process of using etc such as would be pertinent to use of a particular temperature. In any event it is clear that the compositions can be manipulated so as to render the adhesive suitable for elastic attachment as well as packaging.

### ***Conclusion***

7. Applicant's amendment filed 7/11/08 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy whose telephone number is 571-272-1107. The examiner can normally be reached on Mon.-Fri. 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter D. Mulcahy/  
Primary Examiner, Art Unit 1796